



## CITY OF PORTLAND, OREGON

### Office of Cable Communications and Franchise Management

Dan Saltzman, Commissioner

David C. Olson, Director

1120 S.W. Fifth Ave., Room 1305 • Portland, OR 97204

Phone: 503-823-0039 • Fax: 503-823-5370 • TDD: 503-823-6868

[www.portlandonline.com/cable](http://www.portlandonline.com/cable)

December 12, 2006

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992; MB Docket N. 05-311

Dear Ms. Dortch:

On December 12, 2006 Dan Bates and Vicki Cram, representing the City of Portland, Oregon met with John Hunter of Commissioner McDowell's staff. They discussed Portland's concerns about a draft rule circulating at the FCC which may be considered at the December 20 meeting.

During the course of the meeting, the participants presented the attached document that reiterates Portland's positions taken in the comment and reply comment filed in MB Docket No. 05-311. They voiced their belief that no evidence has been presented indicating that a national problem with the local franchising process exists. Furthermore, even if there is a problem (which there is not), the Commission has no legal authority to act as suggested in the NPRM or by industry commenters. They restated their strong support for competition in the cable video market.

Pursuant to Commission rules, please include a copy of this notice in the record for the proceeding noted above. Thank you.

Sincerely,

Mary Beth Henry  
Deputy Director



**Office of Mayor Tom Potter**  
City of Portland

December 5, 2006

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992; MB Docket N. 05-311

Dear Ms. Dortch:

I am writing today to express concern about a draft rule circulating at the FCC in the video franchising proceeding. Portland supports deployment of competitive new video services and broadband, as rapidly as the market will allow. Indeed, Portland was among the first in the nation to aggressively pursue facilities-based cable and broadband competition. Unfortunately, despite our best efforts to date, no wireline competition has emerged in Portland. I have four primary concerns about the draft rule.

First, build out requirements are necessary to ensure competition and lower consumer prices. Competition, however, occurs only when two or more companies compete for the same business. Without reasonable build-out requirements, Portland consumers will never see cable video service competition. Allowing new entrants to cherry pick instead of competing head to head for business will not lower prices for consumers or provide the much needed true competition that we all desire.

Second, franchise fees and funding for public, education and government (PEG) access and Institutional Networks (INETs) are all very important in Portland. Portland currently receives 5% of gross revenue or about \$4 million annually from Comcast (our sole video provider) in franchise fees for use of the right of way. An additional 3% of gross revenues or \$2 million is invested in the community annually for PEG access and the INET.

This investment over and above the franchise fees is critical to our schools and citizens. The proposed rule would decimate these important programs.

Third, the draft rule calls for a 90 day "shot clock" during which Portland must issue a franchise to new entrants. We believe in public process in Portland. For over 25 years Portland's local franchising process has been successful in balancing the unique needs and interests of our community with the provision of cable services. We have been able to do this because we involve the community in the process which requires a reasonable amount of time. We believe that the proposed 90 days is not enough time to involve our citizens in any meaningful way.

Finally we don't believe that the Commission has the authority to adopt such rules. Congress specifically allows local governments like Portland to negotiate capital investment above the 5% franchise fee and to require that all citizens have access to services.

My staff is available to answer any questions you may have. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Potter", with a stylized flourish extending from the end.

Tom Potter  
Mayor

cc: MHCRC, FCC Commissioners, Oregon Congressional Delegation